

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 19415 of 2004

Between:

V.Jayadurga, w/o Narayana, Business,
R/o Sujatha Nagar, Kothagudem, Khammam.

..... PETITIONER

AND

- 1 The Secretary, Regional Transport Authority, Khammam.
- 2 Asst. Motor Vehicle Inspector, o/o Regional Transport Office, Mancherial.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari and call for the records in Demand Notice dt.15-10-2004, in R.No.8125/A3/2004, from the file of the 1st respondent demanding difference of tax of Rs.68,550/- for the vehicle bearing No.AP/13T-6939 for Q.E.30-9-2004 and quash the same as illegal, arbitrary and contrary to law.

Counsel for the Petitioner: MR.B.SIVA RAMA KRISHNAIAH

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following :

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ORDER: (Per the Hon’ble Sri Justice M.H.S.Ansari)

Heard the learned Counsel for the respective parties.

2. As it is represented before us that the matter is covered by the Judgment of larger bench in L.ROYAL REDDY AND OTHERS v. GOVERNMENT OF A.P., it is not necessary to deal with the various contentions raised in support of the relief as prayed for. Suffice it to state here that petitioner has questioned the demand notice dated 15-10-2004, issued by the 1st respondent, whereby petitioner is directed to pay an amount of Rs.68,550/- towards difference in tax.

3 .The vehicle of the petitioner in question was seized and according to the respondents-authority the same was found carrying a marriage party from Kothagudem to Mandamarri. It is the case of the respondents-authority that the vehicle plied without permit by carrying marriage party, whereas the Temporary Permit No.452 of 2004 issued to the vehicle in question was to carry tourist party only for the said route. A Show Cause Notice was issued asking the petitioner as to why the difference of tax at Rs.2,500/- per seat per quarter for quarter ending 30-09-2004 should not be collected.

4 . The matter is squarely covered by the larger bench of judgment in L.ROYAL REDDY AND OTHERS v. GOVERNMENT OF A.P., wherein it has been held that

any deviation in the use of the vehicle would not attract additional tax unless statute itself provides a special category.

5 . Since the said Judgment of the larger bench has not been taken into consideration, the impugned demand requires to be and is accordingly quashed and set aside with liberty to the 1st respondent to pass orders afresh in accordance with law.

6. The Writ Petition is, accordingly, disposed of. No costs.

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M.H.S.ANSARI, J.

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S.ANANDA REDDY, J.

Dated 21-12-2004.

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..... REGISTRAR

To

- 1 The Secretary, Regional Transport Authority, Khammam.
- 2 The Asst. Motor Vehicle Inspector, O/o Regional Transport Office,
Mancherial.
- 3. 2CCs to G.P. for Transport, High Court Buildings, Hyderabad(OUT).
- 4. 2CD copies